



New Atty. Dkt. No. 034536-0448
Old Atty. Dkt. No. 038602-1082

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Axel ULLRICH et al.

Title: TRUNCATED FLK-1 RECEPTOR PROTEIN, METHODS OF USE AND A RECOMBINANT VECTOR CONTAINING A NUCLEOTIDE ENCODING THE TRUNCATED FLK-1 PROTEIN

Appl. No.: 09/766,678

Patent No.: 6,872,699 B2

Filing Date: 01/23/2001

Grant Date: 03/29/2005

Examiner: Lorraine M. Spector

Art Unit: 1647

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER CFR §1.705(b)**

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants respectfully request reconsideration of the patent term adjustment.

The above-identified application was filed on January 23, 2001. The United States Patent Office has an obligation to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), in accordance with CFR § 1.702. The Patent Office failed to act in a timely fashion on the application, as a non-final Office Action was not mailed to the Applicant until March 26, 2002. Therefore, patent term adjustment is needed for the time period beginning March 23, 2002, 14 months from application filing date, and March 26, 2002, the mailing date of the non-final Office Action, a total of 3 (three) days.

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The Patent Office mailed a Notice to File Missing Parts on April 9, 2001. Applicants filed a response on November 9, 2001, a total delay of 123 days. The Patent Office's records show the application was not complete until January 28, 2002, a total of 203 days. Applicant respectfully disagrees. The application was complete on the day Applicants filed a response to the Notice to File Missing Parts, November 9, 2001 not January 28, 2002.

The Patent Office then mailed a Restriction Requirement on March 26, 2002 to which the Applicants did not respond to until August 26, 2002, a total delay of 61 days. A non-final Office Action was mailed on November 14, 2002 to which the Applicants did not respond to until May 14, 2003, a total delay of 89 days. Finally, a final Office Action was mailed on July 11, 2003 to which the Applicants did not file a Notice of Appeal until December 11, 2003, a total delay of 61 days.

The applicant should receive Patent Term Adjustment under 35 U.S.C. 154(b)(1)(B), which guarantees the issuance of a patent within three (3) years from the filing date of the application. The three (3) year time period started on January 26, 2004. The patent grant date for this application was March 29, 2005. The Patent Office caused a delay of 428 days.

It is respectfully requested that a patent term adjustment of **97 days** be issued in favor of the Applicants.

A check for the amount of \$200 is enclosed herewith. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date 27 April 2005

By 

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